United Nations CAT/C/52/2

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
20 March 2014

Original: English

**Committee against Torture**
**Fifty-second session**
28 April–23 May 2014
Item 5 of the provisional agenda
**Organizational and other matters**

# Seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

*Summary*

The seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment surveys the work of the Subcommittee during 2013.

Following a brief introduction, section II provides a factual update on developments relating to the Optional Protocol to the Convention against Torture system, including the increase in States parties and in designated national preventive mechanisms as well as details concerning the operation of the Special Fund established under the Optional Protocol.

Section III highlights areas of cooperation between the Subcommittee and other international and regional bodies and civil society, summarizing the work which they have undertaken together.

Section IV provides substantive information concerning developments in the Subcommittee's working practices, setting out some preliminary thoughts on a range of substantive issues, in particular concerning the Standard Minimum Rules for the Treatment of Prisoners and issues concerning reprisals.

Section V sets out the Subcommittee's views on the relationship between torture prevention and corruption.

Section VI reflects on the Subcommittee's programme of work for 2014 and the practical challenges which need to be addressed if the work of the Subcommittee is to continue to develop and prosper.

GE.14-41816

*1441816*

Please recycle

# Contents


| | | *Paragraphs* | *Page* |
|---|---|---|---|
| I. | Introduction | 1 | 3 |
| II. | The year in review | 2–32 | 3 |
| | A. Participation in the Optional Protocol system | 2–4 | 3 |
| | B. Organizational and membership issues | 5–10 | 3 |
| | C. Visits conducted during the reporting period | 11–15 | 4 |
| | D. Dialogue arising from visits, including publication of the Subcommittee's reports by States parties and national preventive mechanisms | 16–20 | 5 |
| | E. Developments concerning the establishment of national preventive mechanisms | 21–28 | 6 |
| | F. Special Fund under article 26 of the Optional Protocol | 29–32 | 8 |
| III. | Engagement with other bodies in the field of torture prevention | 33–41 | 9 |
| | A. International cooperation | 33–41 | 9 |
| | B. Regional cooperation | 40 | 10 |
| | C. Civil society | 41 | 10 |
| IV. | Issues of note arising from the work of the Subcommittee during the period under review | 42–71 | 10 |
| | A. New membership | 42–43 | 10 |
| | B. Development of working practices | 44–71 | 11 |
| V. | Substantive issues: corruption and prevention of torture and other ill-treatment | 72–100 | 15 |
| | A. Introduction | 72 | 15 |
| | B. Corruption defined | 73–75 | 16 |
| | C. Human rights, democracy and corruption: their broader relationship | 76–79 | 16 |
| | D. Correlation between corruption and torture and ill-treatment | 80–82 | 17 |
| | E. Under what circumstances does corruption thrive? | 83–86 | 18 |
| | F. Conflict and political repression: the importance of democratic principles and the rule of law | 87–88 | 19 |
| | G. Petty corruption | 89–93 | 19 |
| | H. Subcommittee's experience in the field regarding petty corruption and torture and ill-treatment | 94–97 | 20 |
| | I. Concluding remarks | 98–100 | 21 |
| VI. | Looking forward | 101–106 | 21 |
| | A. Plan of work for 2014 | 102–103 | 22 |
| | B. The challenge of resources | 104–106 | 22 |

# I. Introduction

1. Article 16, paragraph 3, of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter, "the Optional Protocol") stipulates that the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment shall present a public annual report on its activities to the Committee against Torture. Pursuant to that provision, a draft report covering the Subcommittee's activities from 1 January 2013 to 31 December 2013 was considered and adopted by the Subcommittee at its twenty-second session and will be presented to the Committee against Torture at the Committee's fifty-second session.

# II. The year in review

## A. Participation in the Optional Protocol system

2. As at 31 December 2013, 70 States were party to the Optional Protocol.[1] In 2013, five States ratified or acceded to the Optional Protocol: Portugal (15 January), Nauru (24 January), Italy (3 April), Norway (27 June) and Burundi (18 October).

3. The pattern of regional participation was as follows:

| | |
|---|---|
| Africa | 13 |
| Asia and the Pacific | 8 |
| Eastern Europe | 18 |
| Latin American and Caribbean States | 14 |
| Western European and other States | 17 |

4. The regional breakdown of the 20 signatory States was as follows:

| | |
|---|---|
| Africa | 11 |
| Asia and the Pacific | 2 |
| Eastern Europe | 0 |
| Latin American and Caribbean States | 1 |
| Western European and Other States | 6 |

## B. Organizational and membership issues

5. During the reporting period (1 January–31 December 2013), the Subcommittee held three one-week sessions at the United Nations Office at Geneva: the nineteenth session (18–22 February), the twentieth session (17–21 June) and the twenty-first session (11–15 November).

[1] For a list of States parties, see the Subcommittee website at www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx.

6. The Subcommittee membership has changed during 2013.[2] On 25 October 2012, at the fourth Meeting of States Parties to the Optional Protocol, 12 members were elected to fill the vacancies arising in respect of members whose terms of office expired on 31 December 2012. The terms of office of all the newly elected members commenced on 1 January 2013 and are for a period of four years, expiring on 31 December 2016. In conformity with the Subcommittee's rules of procedure, new members of the Subcommittee made a solemn declaration at the opening of its nineteenth session, before assuming their duties. During the course of the year, Christian Pross and Olivier Obrecht resigned their membership of the Subcommittee, on 30 October and 12 December 2013, respectively.

7. At its nineteenth session, the Subcommittee elected its Bureau for the period to February 2015. Malcolm Evans was elected Chairperson. The four elected Vice-Chairpersons and their areas of primary responsibility were: Suzanne Jabbour, National Preventive Mechanisms; Aisha Shujune Muhammad, Jurisprudence and Subcommittee Rapporteur; Wilder Tayler Souto, Visits; and Fortuné Gaétan Zongo, External Relations.

8. In its fifth annual report (CAT/C/48/3, para. 10), the Subcommittee had set out details of the system of regional focal points and national preventive mechanism (NPM) regional task forces which it had established. At its nineteenth session, the Subcommittee replaced that structure with a system of regional teams. The heads of regional teams are: Africa, Paul Lam Shang Leen; Asia and the Pacific, Lowell Goddard; Europe, Mari Amos; and Latin America, Judith Salgado Alvarez. The regional teams form a primary building block of the Subcommittee's work, examining the implementation of the Optional Protocol in the States parties in their region. They report back to the Subcommittee plenary, proposing recommendations where desirable. The regional teams also make recommendations to the plenary regarding the visiting programme for the forthcoming year, ensuring that the programme of universal visiting is established in a reasoned and participative manner in accordance with impartially applied strategic operational criteria.

9. The Subcommittee's permanent and ad hoc working groups met at each session during 2013. Further information on those meetings is provided in section IV below.

10. These developments reflect the Subcommittee's preference for meeting in subgroups and working groups, which facilitate discussion of a broader range of issues, in more depth, with greater focus and in a more inclusive fashion than would otherwise be possible.

## C. Visits conducted during the reporting period

11. The Subcommittee carried out six official visits in 2013.

12. Three visits were undertaken in accordance with its mandate under article 11 (a) of the Optional Protocol, to New Zealand (29 April–8 May), Peru (10–20 September) and Gabon (3–12 December).

13. Two visits were undertaken in accordance with its mandate under articles 11 (b) and 12 of the Optional Protocol, to Germany (8–12 April) and Armenia (3–6 September).

14. One visit was undertaken in accordance with its mandate under article 13, paragraph 4, of the Optional Protocol, to Cambodia (9–13 December).

[2] For a list of members and the duration of their mandates, see the Subcommittee website.

15. Further summary information on the above-mentioned visits is available in the press releases issued following each visit.

## D. Dialogue arising from visits, including publication of the Subcommittee's reports by States parties and national preventive mechanisms

16. The substantive aspects of the dialogue arising from visits are governed by the rule of confidentiality. Reports are only made public with the consent of the State party or NPM concerned. At the end of 2013, the Subcommittee had transmitted a total of 28 visit reports to States parties and NPMs: 17 visit reports under article 11 (a) of the Optional Protocol, including 2 within the reporting period on Kyrgyzstan and New Zealand; 1 follow-up visit report under article 13, paragraph 4, of the Optional Protocol; and 10 reports arising from NPM advisory visits under articles 11 (b)[3] and 12 of the Optional Protocol, including 8 within the reporting period to the States parties and NPMs of Armenia, Germany, the Republic of Moldova and Senegal. A total of 12 Subcommittee visit reports have been made public following requests from the States parties under article 16, paragraph 2, of the Optional Protocol, or requests from the NPMs. Two reports arising from NPM advisory visits were made public following requests from the NPMs of the Republic of Moldova and Senegal within the reporting period and one report arising from a visit under article 11 (a) of the Optional Protocol was made public following a request from Argentina.

17. In conformity with established practice, recipients are requested to provide a reply to a visit report within six months of its transmittal, giving a full account of action taken to implement the recommendations it contains. At the end of 2013, the Subcommittee had received 11 replies from States parties to visit reports under article 11 (a) of the Optional Protocol. The replies from Argentina, Benin, Brazil, Mexico (2 replies), Paraguay and Sweden have been made public, while those from Bolivia (Plurinational State of), Lebanon, Mauritius and Ukraine remain confidential. The Subcommittee considers the replies from the following five States parties to be overdue: Cambodia, Honduras, Liberia, Maldives and Mali.

18. The Subcommittee now issues a confidential written response to all replies received. In 2013, it transmitted such a response to Brazil. All responses currently remain confidential.

19. The Subcommittee has conducted two visits under article 13, paragraph 4, of the Optional Protocol, to Cambodia and Paraguay. The visit to Cambodia took place within the reporting period. Both the report and the reply arising from the previous article 13, paragraph 4, visit to Paraguay have been made public at the request of that State party.

20. The Subcommittee has transmitted reports to the NPMs and to the States parties in the wake of its NPM advisory visits under articles 11 (b) and 12 of the Optional Protocol to Armenia, Germany, Honduras, the Republic of Moldova and Senegal, all of which took place within the current reporting period except for the visit to Honduras. All the reports transmitted to the States parties remain confidential. The reports transmitted to the NPMs of Germany, Honduras, the Republic of Moldova and Senegal are public, whilst the report to the NPM of Armenia is confidential. States party replies from Honduras, the Republic of Moldova and Senegal are currently outstanding.

[3] Since the Subcommittee sends separate confidential reports to both the State party and the NPM following such visits, each visit generates two reports.

## E. Developments concerning the establishment of national preventive mechanisms

21. Of the 70 States parties to the Optional Protocol, 46 have officially notified the Subcommittee of the designation of their NPMs, information concerning which is listed on the Subcommittee website.

22. Three official notifications of designation were transmitted to the Subcommittee in 2013, from Austria, Portugal and Tunisia.

23. Twenty-four States parties have not yet notified the Subcommittee of the designation of their NPMs. As at the end of 2013, the one-year deadline for the establishment of an NPM provided for under article 17 of the Optional Protocol had not expired for three States parties: Italy, Nauru and Norway. Furthermore, one State party, Bosnia and Herzegovina, has made a declaration under article 24 of the Optional Protocol permitting it to postpone designation for up to an additional two years. On 9 July 2012, Romania also made such a declaration. After due representations from the State party and consultation with the Subcommittee, the Committee against Torture extended the postponement for an additional two years at its forty-ninth session, in November 2012. During its fiftieth session, on 13 May 2013, the Committee met in public session with Romania in order to learn more about the measures being taken to establish the NPM. The Subcommittee regrets that a lack of funding prevented any of its members from participating in that meeting, but it was pleased to be represented by the Secretary of the Subcommittee, who emphasized that the Subcommittee stood ready to assist the Romanian authorities as they established the NPM, in accordance with its mandate under the Optional Protocol, and drew attention to the Subcommittee's guidelines on national preventive mechanisms (CAT/OP/12/5). On 3 July 2013, Romania informed the Subcommittee of its action plan for establishing an NPM. During its twenty-first session, the Subcommittee held a follow-up meeting with the Permanent Mission of Romania, with the participation of members of the Committee against Torture.

24. As at 31 December 2013, therefore, 20 States parties had not formally complied with their obligations under article 17 of the Optional Protocol. Whilst this marks an improvement in the overall position compared to 2012, it remains a matter of major concern. At each Subcommittee session, the regional teams review progress towards the fulfilment of each State party's obligation, making appropriate recommendations to the plenary on how the Subcommittee can best advise and assist the States parties concerned, in accordance with its mandate under article 11 (b) (i) of the Optional Protocol. It must, however, be noted that the Subcommittee understands that a number of States parties have in fact designated NPMs, but have not officially communicated that information to the Subcommittee. The actual position is therefore somewhat better than the figures suggest.

25. The Subcommittee has continued the practice of engaging in dialogue with States parties at its sessions concerning the designation or functioning of their NPMs. At its nineteenth session, the Subcommittee held such meetings with the permanent missions of Bosnia and Herzegovina, Brazil and Sweden. At its twentieth session, it held similar meetings with the permanent missions of Benin, Guatemala and Tunisia, and at its twenty-first session, with the permanent missions of Romania and Turkey. Members of the Subcommittee are also in contact with other States parties who are in the process of establishing their NPMs.

26. The Subcommittee has also established and maintained contact with NPMs themselves, in fulfilment of its mandate under article 11 (b) (ii) of the Optional Protocol. At its twentieth session, the Subcommittee met with the NPM of the United Kingdom of Great

Britain and Northern Ireland in order to learn more about its work and exchange information and experiences. At its twenty-first session, the Subcommittee met with the NPM of Kyrgyzstan. The Subcommittee is also pleased to have received the annual reports of 32 NPMs during 2013. They have been posted on the Subcommittee website and reviewed by the regional teams.

27. The Subcommittee and its members have continued to receive invitations to attend numerous national, regional and international meetings on the designation, establishment and development of NPMs in particular and on the Optional Protocol in general. Those events have included:

(a) In January 2013, initial conversations about the work of the United Kingdom NPM and informal visits to a place of detention in London chosen by the United Kingdom NPM, in parallel with an Optional Protocol-related event organized by the Open Society Justice Initiative and the Human Rights Implementation Centre at the University of Bristol;

(b) In February 2013, a meeting organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Astana with the Kyrgyz Ombudsman, the Chair and members of the parliamentary committee responsible for the law on the NPM, the Deputy Chief of Staff of the Executive Office and the Minister for Human Rights in the Ministry of Foreign Affairs to discuss the proposed legislation providing for the NPM;

(c) In February 2013, a workshop in Algiers on torture prevention, organized by the Association for the Prevention of Torture (APT);

(d) In March 2013, a workshop in Manila on guidelines on health-care assessment in detention centres, organized by the Medical Action Group;

(e) In March 2013, a meeting in Belgrade with the NPMs of Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia, Slovenia and the former Yugoslav Republic of Macedonia to discuss the establishment of a Balkan NPM network, organized by the NPM of Serbia;

(f) In April 2013, a meeting in Quito on NPMs and the prevention of torture, organized by APT and the Office of the Ombudsman of Ecuador;

(g) In May 2013, a training course in Manila on NPMs, organized by APT;

(h) In May 2013, a workshop in Nouakchott on NPMs, organized by APT;

(i) In July 2013, a meeting in Santiago on NPMs, organized by the Human Rights Centre at the University of Chile;

(j) In September 2013, a round table in Manila with the Philippines Optional Protocol Working Group;

(k) In September 2013, a meeting in Helsinki with the Parliamentary Ombudsman of Finland;

(l) In October 2013, a meeting in Bucharest on an NPM with the Parliamentary Human Rights Committee of Romania;

(m) In October 2013, a seminar on torture prevention, organized in Asunción by OHCHR, the NPM of Paraguay and APT;

(n) In November 2013, the Second Jakarta Human Rights Dialogue on Prevention of Torture in the Association of Southeast Asian Nations (ASEAN) Region, organized by the ASEAN Intergovernmental Commission on Human Rights;

(o) In November 2013, a conference in Strasbourg, France, entitled "Immigration detention in Europe: establishing common concerns and developing minimum standards";

(p) In December 2013, a seminar in Bangkok on the Optional Protocol, organized by the International Commission of Jurists;

(q) In December 2013, a subregional consultation in Kampala on strengthening the protection mandate of national human rights institutions in East Africa, organized by OHCHR Uganda;

(r) In December 2013, a workshop in Bamako to raise awareness about the prevention of torture and the role of the Optional Protocol in Mali, organized by the Ministry of Justice of Mali;

(s) In December 2013, a round table in Phnom Penh on the establishment of an NPM, organized by OHCHR Cambodia.

28. The Subcommittee would like to take this opportunity to express its gratitude to the organizers of those and all other events to which the Subcommittee has been invited. It regrets that its participation must remain conditional on the financial support of others, as it has no means of its own with which to fund its members' attendance.

## F. Special Fund under article 26 of the Optional Protocol

29. The purpose of the Special Fund established under article 26, paragraph 1, of the Optional Protocol is to help finance the implementation of Subcommittee recommendations made following a visit to a State party, and education programmes of NPMs. The Special Fund is administered by OHCHR in conformity with the Financial Regulations and Rules of the United Nations and the relevant policies and procedures. As an interim measure, it was agreed that the OHCHR Grants Committee would decide on the eligibility of projects and would award grants on the basis of the evaluation criteria set out in the guidelines for applications. More permanent arrangements, building on the success of the interim scheme, are currently being developed.

30. The Subcommittee is convinced that the Special Fund is a valuable tool for furthering the prevention of torture and wishes to express its gratitude to contributors for their generosity.[4] In 2013, contributions totalling US$ 10,000 were received from Argentina. The Subcommittee notes that, in 2012, the Fund received contributions totalling US$ 403,363[5] and is anxious to ensure that donations continue at a rate commensurate with the needs which the Fund is intended to address.

31. The second call for applications to the Special Fund (August–October 2012) yielded 30 applications. Following informal consultations with the Subcommittee at its nineteenth session, eight grants were awarded, totalling US$ 277,588. The third call for applications to the Special Fund was issued in September 2013.

32. The Subcommittee firmly believes that the collaborative manner in which the Special Fund is currently administered reflects the aspirations of the drafters of the Optional

[4] The Special Fund receives voluntary contributions from Governments, intergovernmental and non-governmental organizations and other private and public entities.

[5] In 2012, the Special Fund received the following contributions: US$ 158,227.85 from the United Kingdom; US$ 10,219.56 from the Czech Republic; US$ 215,982.72 from Switzerland; and US$ 18,932.47 from Italy.

Protocol. In particular, it believes that the focused and country-specific guidance which it can provide concerning its recommendations is essential in order to maximize the preventive impact of the grants made. The Subcommittee hopes that the Fund will continue to support projects that are essential for the effective prevention of torture and ill-treatment.

# III. Engagement with other bodies in the field of torture prevention

## A. International cooperation

### 1. Cooperation with other United Nations bodies

33. As provided for under the Optional Protocol, the Chairperson of the Subcommittee presented the sixth annual report of the Subcommittee (CAT/C/50/2) to the Committee against Torture at the Committee's plenary meeting on 16 May 2013. The Subcommittee and the Committee also took advantage of their simultaneous sessions in Geneva in November 2013 to discuss a range of issues, both substantive and procedural, that are of mutual concern.

34. In conformity with General Assembly resolution 67/161, the Subcommittee Chairperson presented the sixth annual report of the Subcommittee to the General Assembly at its sixty-eighth session, on 22 October 2013. That event also provided an opportunity for the Chairperson of the Subcommittee to meet with the Chairperson of the Committee against Torture and the Special Rapporteur on the question of torture, both of whom also addressed the General Assembly.

35. The Subcommittee has continued its active involvement in the annual Meeting of chairpersons of human rights treaty bodies. The Chairperson of the Subcommittee was elected Vice-Chair of the twenty-fifth Meeting, held from 20 to 24 May 2013 in New York. As indicated in its sixth annual report, the Subcommittee endorsed the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) and adapted its rules of procedure to ensure they are in full conformity with the guidelines. It also adopted a statement on the treaty body strengthening process, which is available on the Subcommittee website. It also participated in numerous other OHCHR activities (see sect. II. E above).

36. The Subcommittee continued its cooperation with the Special Rapporteur on the question of torture and joined him, along with the Committee against Torture and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, in issuing a statement on the occasion of the International Day in Support of Victims of Torture on 26 June 2013. The Subcommittee was also delighted to meet with both the Special Rapporteur and the Committee against Torture in a public session during its twenty-first session. Also during its twenty-first session, the Subcommittee held its first meeting with the Working Group on Arbitrary Detention.

37. The Subcommittee continued its cooperation with the United Nations High Commissioner for Refugees, the World Health Organization and the United Nations Office on Drugs and Crime.

### 2. Cooperation with other relevant international organizations

38. The Subcommittee continued its cooperation with the International Committee of the Red Cross, particularly in the context of its field visits.

39. The Subcommittee is pleased to highlight the fact that, during the reporting period, the process of cooperation with the International Organization of la Francophonie (OIF) resulted in a joint OHCHR-Subcommittee-OIF project to provide support for the activities of the Subcommittee for the implementation of the Optional Protocol in States parties which are members of OIF. The main objectives of the project are to assist francophone African States parties in the implementation of their Optional Protocol obligations, in particular the designation and establishment of NPMs.

### B. Regional cooperation

40. Through the heads of its regional teams, the Subcommittee continued its cooperation with other partners in the field of torture prevention, including the African Commission on Human and Peoples' Rights, the Inter-American Commission on Human Rights, the Council of Europe, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the European Commission. During its twenty-first session, the Subcommittee met with the European Committee to discuss issues of common interest, including the preventive approach to torture and ill-treatment, reprisals, NPMs, their respective working methods and the Standard Minimum Rules for the Treatment of Prisoners.

### C. Civil society

41. The Subcommittee has continued to benefit from the support of civil society actors, in particular APT and the Optional Protocol Contact Network, and academic institutions including the Human Rights Implementation Centre at the University of Bristol. It has also profited enormously from its contact with civil society organizations while conducting its visiting programme. It would like to take this opportunity to thank them all for their work in promoting the Optional Protocol and in supporting the Subcommittee in its activities. The Subcommittee would like to express its particular thanks to the Open Society Justice Initiative, Penal Reform International and the Human Rights Implementation Centre at the University of Bristol for organizing a training workshop at its nineteenth session on pretrial detention. Special thanks must also be given to APT for its invaluable support to the Optional Protocol and to the Subcommittee.

## IV. Issues of note arising from the work of the Subcommittee during the period under review

### A. New membership

42. At its nineteenth session, the Subcommittee was delighted to welcome six new members and six returning members, following the elections held at the meeting of States parties in October 2012. The Subcommittee wishes to congratulate its new members, who bring with them experience and expertise in diverse fields relevant to the practical work of the Subcommittee.

43. The Subcommittee notes that this marks the commencement of a continual process of orderly turnover of membership, as a result of staggered elections combined with maximum periods of membership. The Subcommittee applauds the balance thus struck between continuity and refreshment of its membership. However, it is also acutely conscious of the need to ensure that its newest members are swiftly and effectively inducted

into the Subcommittee's practical work. It regrets that it lacks the capacity to do this as effectively as it would wish, but believes that thought needs to be given to how best to provide appropriate training for the distinctive field-based work of the Subcommittee.

## B. Development of working practices

### 1. National preventive mechanism advisory visits

44. With the introduction in 2012 of NPM advisory visits, the Subcommittee refined its working methods when undertaking visits in order to pay greater attention to the NPM component of its mandate. During 2013, the Subcommittee has been able to consolidate its practice in the light of its growing experience in conducting such visits. It has found that it has been able to cover more ground and enquire into the situation in more countries than was previously the case. The introduction of advisory visits has also given the Subcommittee an opportunity to work more closely with NPMs and focus on the systematic issues which have a bearing on the preventive mandate of NPMs and the similar obligation of States parties. It has been able to draw on this experience when advising and assisting States parties and NPMs in other contexts. The Subcommittee considers this development to have been a great success and such visits will continue to figure in its visiting programme.

45. In its current form, the NPM advisory visit presupposes that an NPM is operational in the country which is to be visited. This is not always the case. Therefore, building on its experience during the year under review, the Subcommittee has decided to vary its methodology in undertaking visits in accordance with its mandate under article 11 (b) of the Optional Protocol in order to enable it to better fulfil its obligations under article 11 (b) (i) to advise and assist States parties, when necessary, in the establishment of NPMs. Such visits, which might be accurately described as Optional Protocol advisory visits, will be short, will not involve the Subcommittee in visiting places of detention under its own visiting mandate, and will focus on meeting with the relevant authorities in the State party in order to assist them in fulfilling their obligations under part IV of the Optional Protocol in dialogue with the Subcommittee.

### 2. Working groups

46. In 2012, the Subcommittee had established a number of ad hoc working groups. During 2013, the working group on training and induction was discontinued after the nineteenth session, as it had fulfilled its purpose of preparing for the induction of the newly elected members. Likewise, the working group on systemic issues relating to NPMs has concluded its work and its recommendations for improved procedures concerning practical engagement with NPMs will be trialled, with a view to their being refined prior to being made public.

47. The working group on medical issues is continuing its work on a range of issues, including refining its position paper on the work of the Subcommittee relating to people with psychiatric illnesses or disabilities and in psychiatric institutions, taking account of the 2013 report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council (A/HRC/22/53).

48. The working groups on reprisals, on the Standard Minimum Rules for the Treatment of Prisoners and on practical issues arising from visits continue their work.

49. As the number of Subcommittee visit reports has increased, and the turnover in membership now means that the individuals who have undertaken country visits may no

longer be Subcommittee members, it has become necessary to systematize the previously rather ad hoc approach to post-visit dialogue with States parties. The Subcommittee has therefore adopted, for the first time, a common system of nomenclature for each element of its written dialogue, based on the trilogy of "Report, response, reply", thus abandoning the former terminology of "follow-up reports". It has formalized the establishment of small, two- to three-member working groups in respect of each visit report, which meet each session and coordinate the Subcommittee's response to replies received, as well as taking the lead in any other forms of engagement with the State party concerning the implementation of Subcommittee recommendations. Members of each working group evaluate the information received, assess the situation and propose recommendations to the Subcommittee plenary on how to move forward, such as through letters, invitations to meet, or other specific suggestions. That exercise has thus far proven to be fruitful in advancing focused, constructive dialogue.

### 3. Subcommittee regional teams

50. It had become apparent that, whilst it had originally been thought that the roles of regional focal point and of the NPM teams would be sufficiently distinct to justify differentiating between them, their work overlapped in practice. Therefore, to avoid duplication, the Subcommittee decided to replace those bodies with four regional teams, each led by a head. The size of the regional teams will vary to take account of the disparity in the numbers of States parties within the regions. The composition of the regional teams will be reviewed and revised on a regular basis to reflect changes in the Optional Protocol participation and Subcommittee membership. As an aid to communication, the membership of the regional teams and the allocation of Country Rapporteurships is available on the Subcommittee website. Further details of the work of the regional teams are contained in the summary report of the working group on systematic issues relating to NPMs (see paras. 69–71 below).

51. The Subcommittee believes that the changes to its working practices have allowed it to become more outwardly engaged, dynamic and responsive to preventive need, capitalizing on its pool of expertise and experience. It means that the Subcommittee is now able to undertake an informed consideration of compliance with Optional Protocol obligations by each and every State party to the Optional Protocol at each and every Subcommittee session, generating further action as appropriate. This depth, spread and frequency of coverage is unique within the human rights treaty body system, and reflects the core Optional Protocol principles of confidentiality, impartiality, non-selectivity, universality and objectivity, as set out in article 2, paragraph 3, of the Optional Protocol.

### 4. Development of Subcommittee position papers and comments on substantive issues

52. During 2013, the Subcommittee's working groups on the Standard Minimum Rules for the Treatment of Prisoners and on reprisals brought their work to the point at which they would value comments from others on aspects of their thinking, as they seek to further develop and conclude their work. The following sections, prepared by the working groups, highlight a number of specific issues on which comment is sought.

#### (a) Working group on the Standard Minimum Rules for the Treatment of Prisoners

53. The ongoing process of revisiting the Standard Minimum Rules for the Treatment of Prisoners gives the Subcommittee an opportunity to stress the need for this basic universal document to uphold and reinforce a number of key overarching principles. They are of central importance to the effective prevention of torture and ill-treatment and, in the view of

the Subcommittee, are implicit in the Rules themselves: due process, human dignity and non-discrimination in places of detention.

*Due process*

54. Since imprisonment can only be legitimate when sanctioned by legal process, the Subcommittee believes that it would be appropriate for the Standard Minimum Rules for the Treatment of Prisoners to acknowledge the importance of due process as a basic procedural safeguard which is applicable not only throughout all phases of the criminal justice process but also the period of imprisonment itself. Due process obligations are not limited to the criminal proceedings and trial. The State has the obligation to ensure that the rights of those convicted and those on remand are properly protected throughout their period of imprisonment.

55. As a result, there must be effective legal procedures available to all prisoners enabling them to challenge any acts or omissions on the part of the detention staff or authorities which are believed to exceed what has been legally sanctioned, and their incidental consequences.

56. In order to achieve such a standard of protective oversight, there needs to be a competent, independent and impartial authority or judicial body empowered to determine whether the detention staff or authorities have acted in breach of their mandate or in excess of their authority and before which both the detainee and custodial staff or authorities appear on an equal footing.

57. While in prison, whether sentenced or in pretrial custody, persons deprived of their liberty must be able to receive advice and assistance from individuals with adequate legal knowledge regarding the exercise of their rights, to enable them to access complaints mechanisms. They must also have effective access to a lawyer who is able to initiate appropriate forms of proceedings before the relevant competent authority or judicial body.

58. Proceedings arising from the situation in penitentiaries can be specialized and may require the expertise of different forms of legal skills than those appropriate for defending against a criminal charge. Translation facilities may also be required. When determining issues brought before them, the competent authority or judicial body must be able to take into account relevant national and international human rights standards.

*Human dignity*

59. Deprivation of liberty does not negate the right to personal self-determination, which needs to be respected and protected to the maximum extent possible while in prison. In particular, all persons enjoy, inter alia, freedom of conscience, which remains inviolable, and the right to a life plan, which is only temporarily interrupted by the fact that they are imprisoned.[6]

60. All prisoners are the subjects of rights and duties rather than being objects of treatment or correction. Hence, a paradigm shift away from clinical or therapeutic assumptions, where such assumptions exist, is necessary in order to properly reflect a human rights-oriented approach which works to prevent ill-treatment.[7]

---

[6] The concept of the right to a life plan has been developed by the jurisprudence of the Inter-American Court of Human Rights.

[7] The Subcommittee notes that the Standard Minimum Rules for the Treatment of Prisoners currently appears to use the word "treatment" in at least three different ways: (a) in a general, rather ambiguous

61. Special attention must also be given to solitary confinement, which may only be used as an exceptional disciplinary sanction of last resort and for a restricted period. Both its use and the manner in which it is implemented must be subject to stringent controls.

*Non-discrimination*

62. Decisions concerning the particular modalities of a detention regime should be based on individualized risk assessments, conduct while in detention and other relevant objective factors. Approaches based on labelling or categorizing prisoners according to general psychological profiles, on the nature of their criminal record or on perceptions of the danger they would pose to society if they were not in prison can deprive them of the enjoyment of their rights on the basis of equality, thus constituting a form of discrimination.

### (b) Working group on reprisals

63. The Subcommittee is naturally concerned that its visits frequently lead to reprisals, that is, acts or omissions that permit "any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false".[8] The Subcommittee attaches the highest priority to preventing reprisals and meeting its commitment to do no harm.

64. The Subcommittee is seeking to develop a proactive policy that asserts its uncompromising commitment to preventing reprisals. When finalized, the policy will be a public document and will inform the manner in which the Subcommittee engages with those with whom it works and cooperates.

65. It is therefore suggested that, prior to any visit, the Subcommittee will consider the track record of the relevant State with regard to reprisals, appoint a member of the Subcommittee delegation as the focal point for reprisals, and ask the State to distribute a fact-sheet on reprisals and the Subcommittee's reprisals policy to all relevant interlocutors. Areas of concern would be raised by the Subcommittee with the State party, either by letter or in a meeting with the State party's Permanent Mission in Geneva.

66. If, during a visit, the Subcommittee is made aware of reprisals carried out by the State party, it might implement one or more measures. Such measures might include communicating with the appropriate Government or with officials responsible for the facilities in question and highlighting areas of concern; communicating with the diplomatic missions of other States parties; conducting follow-up visits to monitor the situation, or asking local NPMs or specialized non-governmental organizations to conduct such visits; adapting interview techniques; requesting the intervention of other United Nations bodies; speaking to the local or international media; and, in extreme cases, withdrawing the Subcommittee's delegation from the country.

67. Following each visit, the delegation's focal point for reprisals would be responsible for following up on the Subcommittee's concerns and advising the head of delegation of any measures that needed to be implemented to prevent reprisals. The Subcommittee would then cooperate with all relevant United Nations bodies and other regional mechanisms to ensure that reprisals were prevented. It would do this by keeping States parties to the

---

term of uncertain scope (title and rules 1, 8, 22 (1) and (2), and 94; (b) in a medical sense, relating to detainees who are unwell (rules 22 (1), 23 (1), 44, 82 (4) and 83; and (c) as a description of a corrective/therapeutic approach to detainees (rules 28 (2), 35 (1), 55, 59, 61, 63 (1) and (3), 65, 67 (b), 68, 70 and 75 (2). It is the latter use of the word which is of concern to the Subcommittee.

[8] Optional Protocol, art. 15.

Optional Protocol informed of developments relating to reprisals; establishing a database of reprisal cases; and cooperating with NPMs to promote common policies to prevent reprisals.

68. The Subcommittee would keep its policy, once formally adopted, under constant review.

**(c) Working group on systemic issues relating to national preventive mechanisms**

69. The Subcommittee has decided that it would be helpful to draw up guidelines concerning the manner in which the Subcommittee undertakes its work with NPMs. The guidelines are currently internal to the Subcommittee, as it trials and evaluates them. Both the guidelines and their confidential nature will be reviewed by the Subcommittee at its session in June 2014. The guidelines not only reflect the Optional Protocol mandate of the Subcommittee, but also reflect and respond to the views expressed by both States parties and NPMs concerning their aspirations and their expectations of the Subcommittee in that regard.

70. The guidelines provide details concerning the work of the four regional teams established within the Subcommittee (see para. 50 above) and the responsibilities of their members. The main task of the regional teams is to undertake and coordinate the NPM related activities of the Subcommittee within each region. Every Subcommittee member is assigned to a regional team and is appointed country rapporteur for a number of States. The main task of the country rapporteur is to maintain an up-to-date overview of the situation regarding the establishment and work of the NPM. Each regional team is led by a head, whose principal task is to direct and coordinate the activities of the team, under the overarching direction of the Subcommittee Bureau, led by the Vice-Chairperson for NPMs in conjunction with the Subcommittee Chairperson.

71. The guidelines also establish the framework within which the Subcommittee can develop its relations with others regarding NPM activities. The Subcommittee seeks to actively engage with other United Nations bodies and external stakeholders in the fulfilment of its NPM related mandate, and is particularly keen to encourage its regional teams to foster collaborative activities between NPMs and other stakeholders themselves.

# V. Substantive issues: corruption and prevention of torture and other ill-treatment

## A. Introduction

72. "Corrupt and malfunctioning criminal justice systems are a root cause of torture and ill-treatment of detainees".[9] There is a recognized correlation between the levels of corruption within a State and the prevalence of torture and ill-treatment: corruption breeds ill-treatment, and disregard for human rights contributes to the prevalence of corruption. In this section of the present report, the link between the two phenomena is considered and the need to take steps towards preventing corruption as a means of better protecting detainees from torture and other ill-treatment is highlighted. This also involves, inter alia, a

[9] Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, addressing the Commission on Crime Prevention and Criminal Justice on 24 April 2009. See www.unodc.org/unodc/en/frontpage/un-human-rights-rapporteur-denounces-torture.html.

commitment to democratic principles, the rule of law, including transparency and accountability, effective mechanisms for independent oversight, a free press and an independent judiciary.

## B. Corruption defined

73. Corruption can be broadly understood as the dishonest misuse or abuse of a position of power to secure undue personal gain or advantage, or to secure undue gain or advantage for a third party. The acts that it includes can be derived from the prohibitions included in various international and national texts, including the United Nations Convention against Corruption (2003), the African Union Convention on Preventing and Combating Corruption (2003), the Inter-American Convention against Corruption (1999) and the Criminal Law Convention on Corruption (1999) of the Council of Europe.[10]

74. The United Nations Convention against Corruption, for instance, sets out a broad range of corruption-related offences that require preventive and corrective measures. Corruption can occur in both the public and private sectors, and includes such acts as bribery, money-laundering, embezzlement, trading in influence, abuse of position, illicit enrichment and obstruction of justice.

75. The United Nations Office on Drugs and Crime distinguishes between "grand corruption" and "petty corruption". Grand corruption concerns senior (State) officials and may involve large sums of money, assets or other benefits. Tackling grand corruption may be dangerous and it may thus be difficult to eradicate without the involvement of international organizations. Petty corruption, which the Subcommittee has frequently encountered during its visits to places of detention, refers to people's experiences in their dealings with corrupt public officials when using public services, and generally involves modest sums of money or other favours. Corruption is a complex phenomenon that is encountered worldwide; it is present in both developed and developing countries and is often subtle and difficult to identify. Whilst the relative economic development of a State does not affect the risk of corruption existing in the State, it may affect the manner in which corrupt groups and individuals operate and may make it more difficult to detect corruption where it is present. Such corruption can only be eradicated if there is a clear and strong political will to do so, supported by educational programmes for all stakeholders and for the general public concerning corruption and human rights.

## C. Human rights, democracy and corruption: their broader relationship

76. Linking anti-corruption and human rights frameworks in practice requires an understanding of how the cycle of corruption facilitates, perpetuates and institutionalizes human rights violations. It is widely recognized that corruption "undermines accountability and transparency in the management of public affairs as well as socio-economic development."[11] "Corruption threatens the rule of law, democracy and human rights,

[10] See also the Convention drawn up on the basis of Article K.3 (2) (c) of the Treaty on European Union on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (1997), the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) of the Organization for Economic Cooperation and Development and the Civil Law Convention on Corruption (1999) of the Council of Europe.

[11] African Union Convention on Preventing and Combating Corruption, preamble.

undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society".[12] Conversely, but related to this, in its preamble, the French Declaration of Human and Citizen's Rights of 1789 states that ignorance, neglect and contempt for human rights are the only causes of public misfortune and the corruption of governments. There is thus a strong and recognized link between human rights abuses generally, and corruption; corruption leads to human rights abuses, while disregard for human rights breeds corruption. The problem is self-perpetuating and in order to prevent human rights abuses, including torture and ill-treatment, human rights and democratic principles must be taken seriously by the State and measures must be taken towards eradicating corruption.

77. Critically, and without exception, "the prevention and eradication of corruption is a responsibility of all States".[13] The United Nations Convention against Corruption and other related conventions provide a solid basis for States to prevent and eradicate corruption, stating that it is incumbent on States to ensure that they take steps to criminalize and prosecute cases of corruption. States must also act preventively, ensuring that there is transparency and accountability. In order to eradicate corruption, States should also cooperate with international partners and other States.

78. Examining the causes of corruption and the means to address them, the United Nations human rights treaty bodies and special procedures have often concluded that States cannot comply with their human rights obligations in situations where corruption is widespread. However, the extent to which acts of corruption directly violate human rights, or lead to violations, is rarely explained or defined in precise terms.

79. Within the broader framework of human rights protections and corruption, the scope of the present report is limited to the connection between petty corruption and torture and other ill-treatment, based on the experiences of the Subcommittee when undertaking its country visits.

## D. Correlation between corruption and torture and ill-treatment

80. Corruption violates the rights of all those affected by it, but it has a disproportionate impact on people belonging to groups exposed to particular risks, such as minorities, indigenous peoples, migrant workers, people with disabilities, those with HIV/AIDS, refugees, prisoners, women, children and those living in poverty. In the exercise of its mandate to prevent torture and other ill-treatment, the Subcommittee has observed that, while all detainees are in a position of vulnerability, those in police cells awaiting questioning and those in pretrial custody or immigration detention are particularly vulnerable. Similarly, migrant workers who lack a residence permit may also fall victim to corrupt officials who, knowing the workers are unable to lodge complaints, seek to extort money from them using the threat of violence and deportation. Their vulnerability is heightened further if they are unable to retain the services of a counsel or benefit from legal aid. Access to a lawyer has been shown to be a valuable protection against corrupt officials as well as a preventive safeguard against torture and other ill-treatment.

81. Those who commit corrupt acts will attempt to protect themselves from detection and to maintain their positions of power. In doing so, they are likely to further oppress

[12] Criminal Law Convention on Corruption, Council of Europe, preamble.
[13] United Nations Convention against Corruption, preamble.

those in positions of vulnerability, who are more likely to be more exploited and less able to defend themselves. In this way, corruption reinforces their exclusion and the discrimination to which they are exposed.

82. Accordingly, there is a strong correlation between the levels of corruption within a State and the levels of torture and ill-treatment found there. One reason is that in States with high levels of corruption there may be less likelihood of torture and ill-treatment being either discovered or prosecuted. The struggle to promote human rights and the campaign against corruption share a great deal of common ground. A corrupt government that rejects both transparency and accountability is unlikely to respect human rights. Indeed, the rejection of transparency and accountability make the protection of human rights difficult, if not impossible. Therefore, eradicating corruption and preventing torture and ill-treatment are not disparate processes, but are interdependent. Corruption within a State seriously impedes the eradication of torture and ill-treatment. Hence, to prevent torture and ill-treatment it is also critical to prevent and eradicate corruption. There must be vigilance, and where corruption is present it must be rooted out and punished appropriately, in accordance with the law.

## E. Under what circumstances does corruption thrive?

83. The interrelationship of torture and ill-treatment and corruption is influenced by the extent of economic development and the level of functioning democracy within a State. Although it is sometimes thought that corruption is more prevalent in developing than in developed countries, that is not always the case. Indeed, some developed countries and corporations from the developed world bear responsibility for corruption in developing countries. While corruption in developed countries is often more sophisticated, subtle and less visible than in developing countries, and hence may be more difficult to detect, that does not mean that it is not present. In general, however, democratic States with strong economies tend to have a lower incidence of human rights violations.

84. In the context of torture and other ill-treatment, this may be for a number of reasons.

(a) States vary in their financial ability to achieve a common and acceptable standard of detention conditions. Where the general conditions of detention fall below minimum acceptable standards, it is more likely that corrupt prison officers may extort money from inmates with financial means in order for those detainees to have access to certain privileges, services or benefits.

(b) State agents in countries with unstable governments, including those which have experienced war and political instability, may be more ready to use violence to maintain control of a politicized population. In a culture where violence has become normalized, corruption, such as extorting protection money, is more likely to occur.

(c) In countries where State agents may not receive proper or adequate pay for their work, there will be a greater temptation to resort to corruption, abuse of power and extortion of money from detainees in vulnerable situations as a means of supplementing incomes. Likewise, in understaffed institutions, a system based on the use of trusted inmates is more likely to be in place, and the trusted inmates themselves may take advantage of their privileged position to extort money or favours from other, more vulnerable, inmates.

85. Similarly, in States which do not subscribe to democratic principles and the rule of law, corruption and human rights abuses are more common. The open engagement of States in international political and economic life, in accordance with international law and within

the framework of international organizations, is likely to have a beneficial effect on their human rights compliance. It also enhances the possibility of external pressure being applied, such as aid being made conditional upon compliance with international human rights norms, transparency and good governance.

86. Another important element is the education and training of State agents. Poor selection criteria and inadequate training, the hardening effect of previous violence and the inattention or indifference of those in command encourage State agents to behave in a corrupt and repressive manner, often with impunity. When corrupt or malicious State agents are not subject to external and independent scrutiny, levels of torture and ill-treatment are significantly higher. Transparency and accountability within a State system are prerequisites for ensuring that such actions are not concealed and do not go unpunished. Unsurprisingly, those principles are generally absent in States where corruption is rife. Enhancing transparency and accountability within the State system is an important means of combating both torture and ill-treatment, and corruption. The importance of a State subscribing and adhering to democratic principles and the rule of law, including transparency and accountability, cannot be overstated.

## F. Conflict and political repression: the importance of democratic principles and the rule of law

87. In countries where there is or has been conflict, State agents use more violence, including torture and ill-treatment, than in States that are not in conflict. In non-democratic States, there is a heightened risk of suppression of political dissent by means of torture, ill-treatment, unlawful killing, disappearance and imprisonment. Democracy tends to inhibit repressive conduct, particularly where State agents have been appropriately selected and trained in human rights awareness, and where independent oversight mechanisms are in place. In a democracy where, inter alia, transparency, a free press, independent oversight and complaints mechanisms, and an independent and impartial judiciary and judicial process are all valued and protected, there is more information available relating to the actions of State agents and hence there is greater accountability, including recourse to investigation and/or prosecution when appropriate.

88. Illegal, unauthorized and unregulated activities of security officials pursuing private interests may substantially contribute to the overall amount of violence, or even be its principal cause. A State must never turn a blind eye to violence perpetrated by its officials, but all too often, an absence of democracy means that this is precisely what happens. In a democracy, the accountability of government through the electoral process means that it is in the direct interest of those in power to ensure that State agents are held accountable, and to guard against corruption and the use of torture and ill-treatment.

## G. Petty corruption

89. Petty corruption is that which is encountered by people in their dealings with corrupt public officials, including the police, prison officers and members of security services who use their authority for personal advantage, thus adding to the suffering of those they should be seeking to serve. This may be driven by general economic circumstances and/or by poorly paid officials seeking to supplement their income.

90. The Subcommittee is aware that torture, ill-treatment, or the threat of torture or ill-treatment, may be used to extort bribes by poorly paid State officials, in abuse of their

authority. The risk of such financially motivated abuses can be lessened by ensuring that State agents receive appropriate remuneration, on a regular basis.

91. Such risks can also be mitigated by the safeguards which should be provided by democratic societies governed by the rule of law to protect detainees from the risk of ill-treatment. In particular, individuals detained for questioning or those awaiting trial should be able to have access to legal advice, a medical examination and health care, be able to challenge the legitimacy of their detention before judicial authorities and have access to effective complaints mechanisms, all of which will lessen the risk of extortion. Independent auditing and monitoring systems will also help ensure that information regarding such wrongful practices is transmitted throughout the chain of authority.

92. Nevertheless, such measures alone are unlikely to prevent abuses from occurring. Accordingly, there is a need for proactive policies which improve both education and accountability. Appropriate training and education of police and detaining officials is also essential to combat and protect against corruption and the use of violence. States should refer to the Subcommittee's guidance in that regard (CAT/OP/15/R.7/Rev.1).

93. Adequate laws, an independent judiciary, professionally trained staff, an active civil society and a free press and media are also important elements of a well configured system which reduces the likelihood of petty corruption taking place and challenges impunity.

## H. Subcommittee's experience in the field regarding petty corruption and torture and ill-treatment

94. Given the focus of its work during country visits, the type of corruption the Subcommittee is most likely to encounter is petty corruption. In the light of its experience, the Subcommittee believes that petty corruption perpetrated by underpaid public officials is widespread in many places of detention and particularly in prisons, for both pretrial and sentenced prisoners.

95. The Subcommittee frequently observes situations in which detainees are not provided with the most basic and necessary amenities and facilities. The absence of basic provisions obviously and inevitably brings with it the risk or likelihood of such amenities and facilities being made available only to those who can pay, or pay the most, for them.

96. In some situations, it is common for the authorities either to abdicate the day-to-day running of prisons to some trusted inmates and so-called heads of cells, or to condone the acts of powerful inmates. The Subcommittee has encountered significant evidence of corruption and abuse of power by heads of cells and prisoners, as well as by custodial staff, which has also involved extortion and bribery combined with physical intimidation and ill-treatment of more vulnerable detainees.

97. The Subcommittee has frequently heard from detainees that they must make payments to heads of cells in order to receive basic necessities and enjoy their basic rights, and that the monies paid are often shared with the prison staff. Even access to medical care, family visits, telephone calls and to submit complaints to the prison administration can be made contingent upon payments to both heads of cells or other detainees and staff. The Subcommittee has also encountered situations in which the few who can pay are able to have a place in less overcrowded or better equipped cells, have greater access to facilities and be subject to a considerably less stringent regime than others. This can also include the liberty to move freely within the prison compound. These are all examples of petty corruption linked to torture and other ill-treatment which the Subcommittee believes must

be addressed in order to ensure that those in detention are not subjected to forms of treatment which violate international standards.

## I. Concluding remarks

98. Torture, ill-treatment, human rights abuses more broadly and corruption are inextricably linked; where there are higher levels of corruption, more instances of torture and ill-treatment are usually found. In States where there is corruption, there is less likelihood of ill-treatment being discovered and/or appropriate action being taken against those responsible. Therefore, the existence of corruption within a State seriously impedes moves to eradicate torture and other ill-treatment. In order to combat torture and ill-treatment, States must take all appropriate steps to eradicate corruption, in accordance with international law. Preventing torture and ill-treatment and preventing corruption are the responsibility of all States, without exception.

99. While present in all States, torture and ill-treatment and petty corruption form part of a broader dynamic which includes democracy, the rule of law and the economic strength of a State. In economically vulnerable States, there may be greater temptation to resort to corruption, including extortion involving the threat or use of violence, as a means of supplementing income. To mitigate this risk, it is essential that State agents receive adequate pay which reflects the work that they do, including their responsibility for vulnerable groups. Likewise, it is essential that appropriate staff are employed, that they receive ongoing training highlighting the importance of human rights and the absolute prohibition of torture and ill-treatment, and that it is made absolutely clear that corruption will not be tolerated and that vigorous action will be taken against anyone found responsible for corruption and corrupt practices.

100. Transparency and accountability are essential to prevent torture, ill-treatment and corruption. Democracy inhibits repression, and where democracy and the rule of law are absent, the incidence of torture, ill-treatment and corruption is generally greater since such acts go undetected or unpunished. In a democracy where, inter alia, transparency, a free press, freedom of information, education of the public to curb corruption and human rights abuses, independent oversight and complaints mechanisms, and an independent and impartial judiciary and judicial process are all valued and protected, there is more information available relating to the actions of State agents and hence greater accountability. Accordingly, the importance of adherence to democratic principles in effectively preventing and eradicating torture, ill-treatment and corruption cannot be overstated.

# VI. Looking forward

101. Once again, the Subcommittee has responded to the challenges it faces by refining its working practices in the interest of enhancing impact while improving efficiency. Over the past four years, it has transformed its work in relation to NPMs. It has progressively systematized its internal working processes to ensure that the situation in all States parties is under thorough and continual review. It has ensured that its programme of visits is tailored to form an integrated element of its universal approach to its mandate. It has sought to develop collaboration with other United Nations agencies in order to enhance its dialogue with States parties, and continues to offer advice and assistance to States parties, and upon request, to signatories and others interested in establishing mechanisms which are compatible with the Optional Protocol criteria as a potential precursor to participation in the Optional Protocol system. There are, however, limits to what can be achieved within its

existing support structures and the Subcommittee recognizes that it is now working at the outer edges of what is conceivable within them. It is against this background that the Subcommittee has made its plans for 2014.

## A. Plan of work for 2014

102. The Subcommittee regrets that it was unable to recapture in 2013 the ground lost in 2012 when it had to postpone a visit for the want of sufficient secretariat support. As a result, the visit to Togo planned for 2013 had to be postponed until 2014. Nevertheless, as the Subcommittee believes it is vital for it to expand the range of its activities given the increasing number of States parties, it decided at its twentieth session that, in 2014, it will undertake eight official visits: full visits to Azerbaijan, Nicaragua and Togo (postponed from 2013); NPM advisory visits to Ecuador, Malta and the Netherlands; and an Optional Protocol advisory visit to Nigeria, with a follow-up visit in accordance with article 13, paragraph 4, of the Optional Protocol.

103. In addition to its visiting programme and NPM related activities, the Subcommittee is now also using its website and the present report to solicit comments and suggestions relating to a number of issues on which it is developing its thinking. While appreciating that confidentiality is pivotal to its operation, the Subcommittee will continue to explore potential avenues to engage with other bodies and organizations whose work is cognate to its own.

## B. The challenge of resources

104. In recent years, the Subcommittee has consciously avoided commenting at length on the inadequacy of the resources made available for its work. It remains aware that it must work efficiently within the budgetary allocations made available to it by OHCHR within the overall budgetary envelope. The Subcommittee is very grateful to those States which, recognizing the inadequacy of that provision, have striven in various ways to address its needs.

105. It is, however, apparent to the Subcommittee that, in order to fulfil its current plans for 2014 and beyond, it is essential that a stable, core secretariat be in place to service its cycle of work; that has been sadly lacking in recent times. The 2014 programme of work of the Subcommittee requires at the minimum that the core secretariat of the Subcommittee be returned to its level of two years ago (2 General Service and 3 Professional staff members). The Subcommittee secretariat needs to be further strengthened in line with the High Commissioner's recommendation in her report on the strengthening of the human rights treaty bodies (A/66/860), in which she acknowledged the need for additional resources. In conjunction with the supportive arrangements entered into by others, this would suffice to ensure that the Subcommittee is able to carry out its projected programme of work in the short term.

106. It must remain a matter of speculative conjecture how, in the longer term, the Subcommittee can possibly aspire to continue to meet the ever increasing desire of States parties and NPMs to work with the Subcommittee in order to ensure that the spectre of torture is diminished without there being a fundamental reappraisal of the nature of the provision which is made for its work.